

Senate Bill No. 1624

CHAPTER 827

An act to amend Sections 4828.3, 18000, 18003, 18023.1, 18061, 18100.5, 18190, 18266.1, 18293, 18315, 18563, and 18594 of, to add Section 18016.5 to, to add Article 4 (commencing with Section 18245) to Chapter 3 of Division 7 of, to repeal Sections 18059 and 18341 of, and to repeal and add Section 18003.5 of, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 24, 1998. Filed
with Secretary of State September 25, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1624, Lewis. Industrial loan companies.

Existing law provides for the regulation of industrial loan companies by the Department of Financial Institutions.

This bill would revise provisions relating to the powers, duties, operations, and management of industrial loan companies. It would, among other things, authorize an industrial loan company, in certain circumstances, to acquire in a single transaction all of the outstanding shares of another depository corporation, to borrow funds from, among other sources, the Federal Deposit Insurance Corporation or a Federal Reserve Bank, and to issue credit cards and to acquire or hold obligations resulting from the use of credit cards.

The people of the State of California do enact as follows:

SECTION 1. Section 4828.3 of the Financial Code is amended to read:

4828.3. A California state bank or an industrial loan company may, with the approval of the commissioner and its board and, if the transaction constitutes a reorganization as defined in Section 181 of the Corporations Code, subject to the provisions of Chapter 12 (commencing with Section 1200) of Division 1 of Title 1 of the Corporations Code, acquire in a single transaction all (except directors' qualifying shares, if any) of the outstanding shares of another depository corporation in accordance with a plan that provides either of the following:

(a) That the other depository corporation shall (1) immediately sell its whole business unit (as defined in Section 4840) to the California state bank or industrial loan company and (2) shall thereafter wind up and dissolve or, if the other depository corporation is a California state bank or an industrial loan company

and if the commissioner so approves, change into a nonbank corporation by amending its articles and changing its name.

(b) That the other depository corporation shall immediately merge into the California state bank or industrial loan company.

SEC. 2. Section 18000 of the Financial Code is amended to read:

18000. This division shall be known and may be cited as the “Industrial Loan Law,” the “Industrial Banking Law,” or the “Thrift and Loan Law.”

SEC. 2.5. Section 18003 of the Financial Code is amended to read:

18003. “Industrial loan company,” “industrial bank,” “thrift and loan company,” or “company” means any corporation which in the regular course of business loans money and issues its own choses in action under the provisions of this division.

SEC. 3. Section 18003.5 of the Financial Code is repealed.

SEC. 4. Section 18003.5 is added to the Financial Code, to read:

18003.5. (a) When used with respect to an industrial loan company, “insured” means an industrial loan company that is insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.).

(b) When used with respect to an investment certificate, “insured” means an investment certificate that is insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.).

SEC. 5. Section 18016.5 is added to the Financial Code, to read:

18016.5. “Premium finance agency” has the meaning set forth in Section 18560.

SEC. 6. Section 18023.1 of the Financial Code is amended to read:

18023.1. In addition to the borrowings under Section 18023, an industrial loan company may borrow funds from the Federal Home Loan Bank, the Federal Deposit Insurance Corporation, or a Federal Reserve Bank, which borrowed funds shall not be included in the borrowing limitations contained in Section 18023.

SEC. 7. Section 18059 of the Financial Code is repealed.

SEC. 8. Section 18061 of the Financial Code is amended to read:

18061. If an industrial loan company refers in any advertisement to rates of charge, discount, charges or costs of loans, those charges shall be stated fully and clearly in a manner as may be necessary to prevent misunderstanding thereof by prospective borrowers and to give adequate information to prospective borrowers. If the rates or costs advertised do not apply to loans of all classes, this fact shall be clearly indicated in the advertisement.

SEC. 9. Section 18100.5 of the Financial Code is amended to read:

18100.5. Each industrial loan company, other than a premium finance agency, that has issued and has outstanding thrift obligations shall, as a condition to its authority to conduct business under this division, participate as a member of the Federal Deposit Insurance Corporation.

SEC. 10. Section 18190 of the Financial Code is amended to read:

18190. An industrial loan company may:

- (a) Loan money, secured or unsecured, with or without the pledge of its installment investment certificates.
- (b) Collect and receive charges for loans in advance or otherwise.
- (c) Purchase, sell, or discount the following obligations: bona fide trust receipts, secured or unsecured choses in action, conditional sales contracts, or security agreements.
- (d) Purchase, sell, discount, or originate lease obligations.

SEC. 11. Article 4 (commencing with Section 18245) is added to Chapter 3 of Division 7 of the Financial Code, to read:

Article 4. Credit Cards

18245. (a) Subject to any regulations that the commissioner may issue, an industrial loan company may issue credit cards and may acquire or hold obligations resulting from the use of credit cards.

(b) Except as the commissioner may otherwise provide by regulation or order, the acquiring and holding of obligations pursuant to subdivision (a) are not subject to Article 2 (commencing with Section 18205) or Article 6.5 (commencing with Section 18300).

SEC. 12. Section 18266.1 of the Financial Code is amended to read:

18266.1. An industrial loan company may make loans and acquire obligations, the proceeds of which are used for home improvements that are secured by real property having a market value of at least 100 percent of the principal amount owing on the loan being made by the industrial loan company or obligation being acquired by the industrial loan company and on prior encumbrances, except nondelinquent tax liens, secured by the same real property. Home improvements means additions, alterations, or modifications to owner-occupied property consisting of one to four dwelling units and appurtenant buildings thereto or to the real property containing same.

SEC. 13. Section 18293 of the Financial Code is amended to read:

18293. If credit disability or loss-of-income insurance is provided pursuant to this division, the industrial loan company shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making the claim.

SEC. 14. Section 18315 of the Financial Code is amended to read:

18315. (a) When authorized to conduct business pursuant to this division, an industrial loan company may sell and issue its investment certificates subject to the provisions of this division. The commissioner may, by written order directed to a company or by rule or regulation, impose terms and conditions upon investment

certificates and the sale or redemption thereof or the payment of interest thereon, as he or she deems reasonable and necessary or advisable for the protection of the company or the public, and he or she may from time to time in his or her discretion amend, alter or revoke any such order or regulation or any condition or provision thereof.

(b) Any change in the form, terms, or provisions of outstanding investment certificates or in the rights, privileges, or restrictions upon the holder or issuer thereof is deemed a sale and issuance of investment certificates.

(c) The company named in any order issued pursuant to subdivision (a) of this section may, within 15 days after receipt thereof, file with the commissioner its written request for hearing. The filing of the request shall not operate to postpone or suspend the effectiveness of any order issued by the commissioner unless otherwise directed by the commissioner. The commissioner shall, within 15 days after the receipt of the written request or at such later time as may be mutually agreed with the company, cause the matter to be heard and shall thereafter issue his final decision. The decision may be amended or set aside by the commissioner at any time.

(d) Every order or decision of the commissioner made pursuant to this section is subject to judicial review in accordance with law.

SEC. 15. Section 18341 of the Financial Code is repealed.

SEC. 16. Section 18563 of the Financial Code is amended to read:

18563. As used in this chapter, “premium financing” means the activities of a company engaging in the business of advancing money directly or indirectly to an insurer or producer at the request of an insured pursuant to the terms of a premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends or loss payments as security for such advancement in payment of premiums on insurance contracts only, and acquiring premium finance agreements, and does not include the financing of insurance contract premiums purchased in connection with the financing of goods and services. The amount of such advancement in payment of premiums must bear a reasonable relationship to the premium or premiums being financed.

SEC. 17. Section 18594 of the Financial Code is amended to read:

18594. Any corporation organized as an industrial loan company other than a premium finance agency shall conduct any insurance premium financing business under the authority of this chapter and it shall be subject to all of the provisions of this chapter in respect to such business, as if it were a premium finance agency.